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6-25-19

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June 25, 2019

VIA ELECTRONIC FILING

Hon. Jocelyn G. Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Drive, Suite 100
Columbia, SC 29210

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Re: **DOCKET NUMBERS 2019-176-E, 2019-184-E, 2019-185-E, 2019-186-E**
Joint Response of the South Carolina Solar Business Alliance, Inc. and Johnson
Development Associates, Inc.

Dear Ms. Boyd:

Intervenors the South Carolina Solar Business Alliance, Inc. ("SCSBA") and Johnson Development Associates, Incorporated ("JDA")(together, "Intervenors") hereby submit the following Joint Response to the June 20, 2019 letter of Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP," and together with DEC, "Duke") and the June 24, 2019 letter of Dominion Energy South Carolina ("DESC") regarding Intervenors' proposed procedural schedule for the implementation of S.C. Code Section 58-41-20(A) ("the Proposed Schedule"), as newly enacted by the General Assembly in Act No. 62 of 2019 ("The Act").

The Proposed Schedule is consistent with S.C. Code Ann. Section 58-41-20(A)(2).

Contrary to Duke's and DESC's assertions, the Proposed Schedule is entirely consistent with Section 58-41-20. That section requires the Commission to open a docket "for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies," and other related items; and to issue a decision within six months after the effective date of the statute "approv[ing] each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section." The statute further provides that "Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing." Sec. 58-41-20(A)(2).

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The Proposed Schedule complies with all of these requirements. It includes a consolidated preliminary phase in which intervening parties could file comments and argument regarding critical aspects of avoided cost methodologies on which it would be useful to obtain guidance from the Commission before the utilities file proposed rates. To expedite proceedings, the Proposed Schedule does not contemplate discovery or prefiled testimony in this preliminary phase. In the next phase, the utilities would, informed by guidance from the Commission, present for approval specific proposals for avoided cost methodologies, form PPAs, commitment to sell forms, etc. This phase would allow for intervention, discovery, filed comments or testimony, and an evidentiary hearing, in satisfaction of the statutory requirement.¹ There is simply no basis in the statute to suggest, as Duke does, that no aspect of this proceeding can be conducted without providing for all of these procedural requirements at every stage.

The Proposed Schedule provides adequate time to consider the issues required by the Act.

Although the Proposed Schedule is expedited – in keeping with the ambitious schedule established in the Act – it is not infeasible, as suggested by Duke. Rather, because there are several issues that are relevant to any potential avoided cost methodology, the Proposed Schedule represents the most efficient way to achieve the goals of the Act with regard to avoided cost methodologies.

To be clear, Intervenors are not proposing that the preliminary phase of this proceeding address every conceivable issue related to methodologies used to calculate avoided cost by electrical utilities in South Carolina.

Instead, Intervenors intend to request guidance from the Commission on a limited universe of specific methodological issues, which would not necessarily be utility-specific and which would potentially relate to any avoided cost methodology used by the utilities. The goal of requesting such guidance is to establish a transparent and consistent framework and to avoid potential conflicts regarding issues related to avoided cost methodology in the next phase of the proceeding.

These methodological issues would include, for example:

- The level of transparency with regard to underlying assumptions, data and results required in utility avoided cost filings;
- Whether it is appropriate to include solar integration charges in avoided cost rates before ORS and the Commission have any opportunity to conduct the integration study authorized by new Section 58-37-60;
- Seasonal allocation of capacity needs and costs;
- Methodologies for projection of fuel costs as they relate to avoided energy costs;
- Environmental costs avoided by individual or aggregated QFs;

¹ Intervenors did not include dates for intervention and discovery in the Proposed Schedule on the assumption that the Commission will decide on appropriate time frames for those elements of the case.

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- How the expiration of existing power purchase agreements should be factored into avoided cost calculations; and
- How the characteristics and value provided by QFs paired with battery storage should be factored into avoided cost calculations.

Intervenors submit that having consistent guidance from the Commission on these types of methodological issues would be fairer and more efficient than having to litigate each of these issues separately, in the context of each utility's avoided cost filings.

Intervenors also note that many of the other issues that must be decided under Section 58-41-20, such as terms and conditions for standard offer projects, form contract power purchase agreements, and commitment to sell forms, could be engaged by the parties prior to the issuance of an Order on methodological issues. Intervenors would therefore be amenable to a procedural schedule that allows the parties to file prefiled testimony and engage in discovery on those issues prior to a decision by the Commission on broader methodological issues.

The Proposed Schedule advances efficiency and judicial economy.

Contrary to DESC's assertion that the Procedural Schedule would "serve to create confusion and unduly burden the limited administrative resources of the Commission and the parties," the Proposed Schedule would promote efficiency and judicial economy in this complex proceeding. Rather than requiring parties to "duplicate their efforts" as alleged by DESC, the Proposed Schedule would allow the Commission to consider and apply overarching concepts, principles, and requirements applicable to Duke and DESC. No doubt, Section 58-41-20 established an expedited timeframe in which the Commission must approve avoided cost methodologies, rates, and associated documents for three major utilities. The Procedural Schedule represents an attempt by the Intervenors to streamline and simplify this complex proceeding and to provide the Commission tools that may be useful in further streamlining this process in the future.

The Proposed Schedule does not deprive any party of Due Process.

Duke's vague objections about "due process" violations implicated by the Proposed Schedule are similarly unfounded. In the first instance, Duke fails to identify any liberty or property interest held by the company that it may be deprived of. Even if Duke had articulated such an interest, due process would unquestionably be satisfied by the Proposed Schedule. Procedural due process contemplates notice, a reasonable opportunity to be heard, and a fair hearing before a legally constituted impartial tribunal. *South Carolina Dep't of Health and Envtl. Control v. Armstrong*, 293 S.C. 209, 359 S.E.2d 302 (Ct. App. 1987). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *South Carolina Dep't of Social Servs. v. Holden*, 319 S.C. 72, 459 S.E.2d 846 (1995). All of these requirements are satisfied here. The expedited time frame to which Duke fundamentally objects was established by the General Assembly, and as discussed above, the Procedural Schedule fully complies with the Act.

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In conclusion, Intervenors maintain that Duke's objections are unfounded, and that the Proposed Schedule represents the fairest and most efficient means of accomplishing the goals required by Section 58-41-20 of the Act.

Very truly yours,

s/ James H. Goldin
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JHG:jc
Enclosure

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